

**The Jewish Hospital of St. Louis and Miscellaneous Drivers, Helpers, Health Care and Public Employees, Local 610, affiliated with the International Brotherhood of Teamsters, AFL-CIO, Petitioner.** Case 14-RC-11104

December 26, 1991

**ORDER DENYING REVIEW**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY, OVIATT, AND RAUDABAUGH

The Board has carefully considered the matter at issue and, for the reasons set forth in the Regional Director's Decision and Direction of Election, pertinent portions of which are appended hereto,<sup>1</sup> as modified below, has decided that the Employer's Request for Review is denied as it raises no substantial issues warranting review. In denying review of the Regional Director's exclusion of the occupational therapy craftsman, we rely, in part, on a different analysis.

A distinguishing feature of skilled maintenance employees is their work on systems and equipment as opposed to involvement in direct patient care. The Regional Director recognized that involvement "directly in patient care" is a factor in determining exclusion from a skilled maintenance unit, but erroneously implied that the construction of equipment used in patient care constitutes such direct involvement and, hence, may result in exclusion from the skilled maintenance unit. Whether the equipment involved is used in the care of patients is not determinative here, and we disavow this theory. Rather, the Board will look to whether the contested employee directly cares for patients as part of the primary, rather than incidental, duties of the job. Cf. Second Notice of Proposed Rulemaking, 53 FR at 33923, 284 NLRB at 1560, in which the Board considered the situation of a skilled maintenance employee who incidentally assisted with vocational training projects, as opposed to the employee in question here whose main job involves occupational therapy. Here, for a significant part of his time, the occupational therapy craftsman assists assigned patients in the selection and execution of appropriate projects.

We, therefore, exclude the occupational therapy craftsman not only because he does not operate, maintain, or repair the Employer's physical plant system, but also because his primary job duties include direct patient care.

<sup>1</sup> Review was requested by the Employer only with respect to the Regional Director's exclusion of the yard person, Secretary III, rounds technicians, occupational therapy craftsman, and equipment specialist.

**APPENDIX**

The Petitioner seeks to represent in a single unit all skilled maintenance employees. At hearing, the Petitioner contended

that the unit should specifically include refrigeration mechanics, a refrigeration filter person, carpenters, electricians, stationary engineers, plant mechanics, painters, plumbers, insulators, a storekeeper, a general maintenance mechanic, general maintenance apprentice, and the assistant supervisors in the refrigeration, carpentry, electrical, paint, plumbing, and mechanical departments employed by the Employer at its St. Louis, Missouri facility, excluding office clerical and professional employees, guards, and supervisors as defined in the Act, and all other employees. Although the Employer concedes that the above-described employees are appropriately included in a skilled maintenance unit within the meaning of the Board's Final Rule on Collective-Bargaining Units in the Health Care Industry (herein the Rule),<sup>4</sup> the Employer contends that the petitioned-for unit should also include the classification of Secretary III because she works in the hospital's plant operations and maintenance department as do the above-described skilled maintenance employees. The Employer also contends that the following classifications should be included as they constitute skilled maintenance employees: yard person, bio-medical technician, bio-medical engineering technicians, computer engineers, telecommunications technicians, computer technician trainee, rounds technicians, dialysis equipment technician, equipment specialist, media assistant, research technicians, occupational therapy craftsman, and locksmith. In its brief, the Petitioner concedes that the bio-medical technician, bio-medical engineering technicians, computer engineers, and telecommunications technicians are appropriately included in the unit. There are approximately 56 employees in the petitioned-for unit, including those employees the Petitioner concedes in its brief should be included, 71 employees in the unit sought by the Employer, and 58 employees in the unit found appropriate here. There is no history of collective bargaining for any of the employees involved here.

On April 21, 1989, the Board issued the Rule in which it determined that with respect to acute care hospitals, eight units, including a unit of all skilled maintenance employees, shall be appropriate for collective bargaining purposes and the only appropriate units, absent "extraordinary circumstances." 54 Fed.Reg. 16336, 16347-16348, 284 NLRB 1579, 1596-1597 (1989). On April 23, 1991, the United States Supreme Court in *American Hospital Association v. NLRB*, U.S. 111 S.Ct. 1539, 137 LRRM 2001 (1991), upheld the validity of the Rule, finding that the Board's broad rulemaking process under Section 6 of the Act authorized the Board to make a rule recognizing eight separate bargaining units in acute care hospitals and that these powers are not limited by Section 9(b)'s mandate that the Board decide appropriate bargaining units in each case.

The record here affirmatively establishes that the Employer operates an acute care hospital at its St. Louis, Missouri facility. While the Employer agrees that the petitioned-for unit conforms to a unit defined in the Rule, the Employer contests the appropriateness of a separate skilled maintenance unit contending that the Secretary III should be included by

<sup>4</sup> The Rule is set forth at 29 CFR Part 103, 54 Fed.Reg. 16336, 16347-16348, 284 NLRB 1579, 1596-1597 (1989). Detailed explanations regarding each segment of the Rule are found in the Second Notice of Proposed Rulemaking, 29 CFR Part 103, 53 Fed.Reg. 33900 (1988), 284 NLRB 1527 and in the Final Rule, 54 Fed.Reg. 16336, 284 NLRB 1586 (1989).

virtue of her employment in the plant operations and maintenance department. The Employer, however, does not specifically urge there are "extraordinary circumstances" warranting such inclusion. The Employer does argue that the skilled maintenance unit should not be limited to those skilled maintenance employees who work on the hospital's "physical plant system," but should include skilled maintenance employees who work on various types of equipment throughout the hospital, including bio-medical technicians and telecommunications technicians.

In the Second Notice of Proposed Rulemaking, the Board described skilled maintenance employees as those employees who are generally engaged in the operation, maintenance, and repair of the hospital's physical plant systems such as heating, ventilation, air-conditioning, refrigeration, electrical, plumbing, and mechanical, as well as their trainees, helpers, and assistants. 53 Fed.Reg. 33900, 33920-33924 (1988), 284 NLRB 1527, 1557, 1561. The Board also noted that skilled maintenance classifications typically required completion of high school, some post-secondary training such as vocational or trade school in the field, formal or informal apprenticeship programs; or an associate or bachelor degree and also require continued education in technological changes in building maintenance. The Board found that skilled maintenance employees frequently have separate supervision by the hospital's plant engineering or maintenance department, higher wage rates reflecting higher skills and training, and only incidental contact with employees outside the maintenance department, and no direct involvement in patient care.

The record establishes that the Employer employs approximately 7 employees in the refrigeration department, classified as refrigeration mechanics levels I, II, and III and a refrigeration filter person, who are responsible for operating and maintaining heating and air-conditioning equipment. The Employer also employs 7 carpenters classified into levels I, II, and III, and 6 electricians classified into levels I, II, and III. In the mechanic shop, the Employer employs 18 employees including stationary engineers responsible for operating high pressure boilers, plant mechanics who maintain all mechanical equipment throughout the hospital including compressors, pumps, heat exchangers and surgical vacuums, and a general maintenance mechanic and a general maintenance apprentice responsible for performing general maintenance of all types including electrical, plumbing, carpentry, and refrigeration. The Employer also employs 5 painters classified as levels I, II, and III, 5 plumbers at levels I, II, and III, and an insulator responsible for insulating plumbing lines with waterproof material. In addition, the Employer employs 1 storekeeper who maintains all maintenance equipment, answers service calls and fills in for plumbers and other crafts in emergency situations, repairs wheelchairs and assembles new furniture. All of these individuals are in pay grades 2 through 7 and are included in the Employer's plant operations and maintenance department. In addition, all these employees must have secondary vocational training or prior experience, and are responsible for the operation, repair and maintenance of the hospital's physical plant system. Besides the hospital facility itself, these employees sometimes work at a building to the east of the hospital which contains a child day care center, at the Employer's office buildings on Ballas Road in St. Louis County, Missouri, at the Employer's purchasing office on Duncan Avenue in St. Louis, Missouri,

and at the Chai house in St. Louis County, Missouri. The record also establishes that all non-supervisory employees of the employer, including these employees, receive the same employee manual, are subject to the same policies including holiday, vacation and disciplinary policies, and receive the same benefits.

Accordingly, in view of the record as a whole, and in agreement with the parties, I shall include the refrigeration mechanics, refrigeration filter person, carpenters, electricians, stationary engineers, plant mechanics, general maintenance mechanics, general maintenance apprentice, plumbers, insulator, painters, and storekeeper in the unit found appropriate here.

#### *Yard Person*

The Employer employs one individual in the classification of part-time yard person in the plant operations and maintenance department. The Employer would include this position in the skilled maintenance unit as a skilled maintenance employee, while the Petitioner would exclude this classification because it is not a skilled maintenance position.

The record establishes that the primary duties of the yard person are to keep the hospital grounds free from debris, and to maintain the flower beds and gardens. These duties include watering, mulching and weeding flower beds and shrubs. In performing these duties, the yard person uses tools such as hoes, hoses, and rakes. While the yard person currently employed by the hospital has a degree in horticulture, the record establishes that this degree is not required for the position. The yard person must be a high school graduate or have equivalent education, and possess 3 to 6 months experience in nursery or yard work. No additional education or experience is required. The yard person is classified as a pay grade 1, which is 10 percent below the lowest wage rate of the employees that the parties agreed should be included in the unit as skilled maintenance employees. In view of the above evidence and the record as a whole, including the fact that the yard person is not required to have formal training in a vocational or trade school, or a formal education, and because the functions of the yard person are of a routine nature, and despite the fact that the yard person works in the hospital's plant operations and maintenance department and maintains the outside grounds of the hospital, I find the yard person is not a skilled maintenance employee or the trainee, helper, or assistant of a skilled maintenance employee, and I shall, therefore, exclude the position of yard person from the skilled maintenance unit here.

#### *Secretary III and Secretary IV*

The Employer employs one part-time Level III secretary and one full-time Level IV secretary in the plant operations and maintenance department. Both are secretaries to the director of the plant operations and maintenance department. The Employer contends that the Secretary III should be included in the skilled maintenance unit, not because she is a skilled maintenance employee, but because she is employed in the plant operations and maintenance department. While the Employer argued at hearing that the Secretary IV should be included for the same reason, in its brief the Employer contends, in agreement with the Petitioner, that she should be excluded as a supervisor. The Petitioner contends that the secretaries are not skilled maintenance employees and should

be excluded from the unit, and further contends that the Secretary IV should be excluded as a supervisor.

The record establishes that the Secretary IV opens, reviews, and distributes the mail; maintains personnel files; writes service tickets; answers service calls and determines shop responsibility; prepares correspondence; and transcribes dictation for the director of the plant operations and maintenance department. This position requires a high school diploma and some secretarial or business school courses, as well as shorthand, typing, transcribing, and word processing skills, IBM personal computer journeyman capability, and a minimum of 3 to 5 years secretarial experience. The Secretary IV is also responsible for dividing the secretarial work between herself and the Level III part-time secretary in the department. The record establishes the Secretary III assists the Secretary IV in her duties, including answering phones, transcribing dictation, updating policy and procedural manuals, and compiling special project data. The Secretary III must have a high school diploma and some secretarial or business school courses; possess typing, word processing, and transcribing skills, as well as IBM personal computer journeyman capability; and be familiar with the computerized building automation system. The Secretary III must also have a minimum of 3 to 5 years secretarial experience.

In view of the above evidence and the record as a whole, I conclude that while both secretaries are part of the plant operations and maintenance department and perform some tasks related to maintenance, including answering calls for maintenance and determining shop responsibility, they primarily perform typical business office clerical tasks and have only limited contact with other skilled maintenance employees. Accordingly, I find that neither the Secretary III nor the Secretary IV are skilled maintenance employees, or their trainees, helpers, or assistants. Since the Board, through its rulemaking process, has determined that a separate unit of all skilled maintenance employees is appropriate, I shall exclude the Secretary III and the Secretary IV from the skilled maintenance unit here. See *St. Margaret Memorial Hospital*, 303 NLRB No. 146 (July 29, 1991). Therefore, I find it unnecessary to determine whether the Secretary IV is a supervisor within the meaning of the Act.

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#### *Data Processing and Telecommunications Technicians*

The Employer employs two computer engineers, two telecommunications technicians, one computer technician trainee, and three full-time and two part-time rounds technicians in its information services department. The Employer contends that the computer engineers, telecommunications technicians, the computer technician trainee, and the rounds technicians are skilled maintenance employees and should be included in the petitioned-for unit. Contrary to its position at hearing, in its brief the Petitioner agrees that the computer engineers and telecommunications technicians are appropriately included in the skilled maintenance unit. In its brief, the Petitioner contends the person currently listed as computer technician trainee should be included in the unit but that position should not be included in the unit description because it is a temporary position which will not be filled when the trainee is promoted to the position of computer engineer. The Petitioner

also contends that the rounds technicians should be excluded as they are not skilled maintenance employees.

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The record discloses that the two part-time and three full-time rounds technicians, classified as pay grade 2, make "rounds" throughout the hospital 24 hours a day delivering paper for the computer printers and making minor adjustments to the printers. Those adjustments include aligning continuous feed paper on the tractor feed, changing ribbons, and adjusting the darkness of the print by moving a lever on the outside of the printer. The rounds technician has a cart which contains the paper to be delivered, a screwdriver, cleaning solution to use if the area needs to be cleaned, and a vacuum cleaner to vacuum the floor. The rounds technicians spend about 40 percent of their time cleaning, vacuuming and wiping down the computers. The rounds technicians also change light bulbs in the time and attendance clocks. The rounds technicians are required only to have a high school diploma or a G.E.D. equivalent, but receive in-house training for 6 weeks. The position is not an entry-level position for either the telecommunications technician or the computer engineer job classifications.

In view of the above evidence and the record as a whole, and in agreement with the parties, I find the computer engineers and the telecommunications technicians are skilled maintenance employees and I shall include them in the petitioned-for unit. I further find that the computer technician trainee is the trainee of skilled maintenance employees and I shall include him in the skilled maintenance unit. I also conclude that the rounds technicians perform work of a routine nature which requires no formal education or training, and is not a training position for a more skilled maintenance position. Therefore, I shall exclude the rounds technicians from the skilled maintenance unit here.

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#### *Occupational Therapy Craftsman*

The Employer employs one occupational therapy craftsman in the occupational therapy section of the department of rehabilitation medicine. This employee is a pay grade 4 and is under the supervision of the assistant coordinator of occupational therapy. The occupational therapy craftsman fabricates adaptive equipment for use by occupational therapy patients and must be proficient in all crafts utilized in the department including woodworking, woodburning, sewing, leather, and refinishing. Equipment designed and built by the occupational therapy craftsman includes hand and finger splints, incline boards, climbing ladders, lapboards, and wheelchair appendages. In building these items, the occupational therapy craftsman uses a sewing machine, hand and machine saws, a drill press and hand tools. The occupational therapy craftsman is responsible for maintaining all machinery and equipment in the occupational therapy department in a safe and efficient working condition. The occupational therapy craftsman also assists assigned patients in the selection and execution of the appropriate projects. Approximately 50 to 60 percent of the occupational therapy craftsman's time is spent making things. The remainder of his time is spent running errands, going to the print shop, picking up supplies, and helping with patient care. The occupational therapy

craftsman must be a high school graduate and have 2 years of experience in an occupational therapy department or similar setting. He also receives 3 months on-the-job training. The Employer contends the occupational therapy craftsman is a skilled maintenance employee and should be included in the unit, while the Petitioner contends the occupational therapy craftsman is not a skilled maintenance employee and should be excluded. In view of the above evidence and the record as a whole, including the fact that the primary duties of the occupational therapy craftsman are not to operate, maintain, and repair the hospital's physical plant system but to design and fabricate the equipment to be used directly in patient care, and there is no formal education or training required of a vocational or craft-type nature, I conclude this individual is not a skilled maintenance employee or the helper, trainee, or assistant of a skilled maintenance employee, and shall exclude this position from the skilled maintenance unit here. See *Mounty Airy Psychiatric Center*, 253 NLRB 1003, 1005 (1981); *Trinity Memorial Hospital of Cudahy, Inc.*, 219 NLRB 215, 216 (1975).

#### *Equipment Specialist*

The Employer employs one equipment specialist in the dispatch services department who is supervised by the dispatch mailroom supervisor. The Employer, contrary to Petitioner, contends this classification should be included in the unit as a skilled maintenance employee. The equipment specialist is responsible for repairing and cleaning all patient-care equipment used in the nursing divisions, including I.V. poles, stretchers, blood pressure equipment, bedside com-

modes, and wheelchairs which are neither battery-operated nor motorized. Specifically, the equipment specialist checks the I.V. poles to make sure all the casters work properly, checks the braking mechanism on stretchers, replaces parts on wheelchairs, and replaces bladders and tubing screwed to the bulb and cuff of the blood pressure equipment. None of the equipment maintained by the equipment specialist has any electrical features and except for the hydraulic stretchers, the equipment operates mechanically with a lever. The equipment specialist also orders mattresses when they need to be replaced and is responsible for keeping the equipment clean. In addition, the equipment specialist spends about 1 hour and 20 minutes of each 8-hour day picking up the Employer's mail from the main post office in St. Louis, and sometimes transports patients. The majority of his time, however, is spent working on the patient-care equipment. The record establishes that there is no formal education or prior experience required for this position. The only training involved consists of 2 to 4 hours spent in-house reading manuals and learning how to operate new equipment. In view of the above evidence and the record as a whole, including the fact that the position requires no formal education or training, and as the work performed by the equipment specialist is of a routine nature and is not similar to that performed by the traditional craft or trade-type skilled maintenance employees, I conclude the equipment specialist is not a skilled maintenance employee or a helper, trainee, or assistant of a skilled maintenance employee, and I shall, therefore, exclude this position from the skilled maintenance unit here.